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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-967; C-570-968

Aluminum Extrusions from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

SUMMARY: On June 20, 2013, the United States Court of International Trade (“CIT” or “Court”) sustained the Department of Commerce’s (“Department”) final results of remand redetermination, in which it determined that T-Series and M-Series components for automotive heating/cooling systems (“components for automotive heating/cooling systems”) imported by Valeo, Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. (collectively, “Valeo”) are subassemblies that meet the description of excluded “finished goods” and are not covered by the scope of the antidumping and countervailing duty orders on aluminum extrusions from the People’s Republic of China,¹ pursuant to the CIT’s remand order in *Valeo, Inc., Valeo Engine Cooling, Inc., and Valeo Climate Control Corp. v. United States*, Court No. 12-00381 (CIT February 13, 2013).²

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final CIT judgment in

¹ See *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (“*Orders*”).

² See *Final Results of Redetermination Pursuant to Court Remand, Valeo, Inc., Valeo Engine Cooling, Inc., and Valeo Climate Control Corp. v. United States*, Court No. 12–00381 (May 13, 2013) (“*Remand Results*”).

this case is not in harmony with the Department's Final Scope Ruling on Automotive Heating and Cooling Systems³ and is amending its final scope ruling.

EFFECTIVE DATE: July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Brooke Kennedy, Office 8, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3818.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 2012, Valeo submitted a scope request claiming that two distinct types of automotive heating and cooling components are outside the scope of the *Orders*. The Department issued its Final Scope Ruling on Automotive Heating and Cooling Systems on October 31, 2012. In that ruling, the Department determined that Valeo's components for automotive heating/cooling systems are covered by the scope of the *Orders*.

On November 26, 2012, Valeo filed a complaint with the CIT. On February 12, 2013, the Department asked that the Court grant a voluntary remand to allow the Department to re-examine its determination in the Final Scope Ruling on Automotive Heating and Cooling Systems. On February 13, 2013, the Court granted the Department's request for a voluntary remand. In the Remand Results, the Department determined that Valeo's components for automotive heating/cooling systems, at the time of importation, contain all of the necessary parts required for integration into a larger system. The Department applied the "subassemblies test"

³ See the Department's memorandum regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China – Final Scope Ruling on Valeo's Automotive Heating and Cooling Systems, dated October 31, 2012 ("Final Scope Ruling on Automotive Heating and Cooling Systems").

developed in the Side Mount Valve Controls Scope Ruling,⁴ and determined that Valeo's components for automotive heating/cooling systems are subassemblies that constitute excluded "finished goods," as described in the *Orders*, and are not covered by the scope. On June 20, 2013, the CIT sustained the Department's Remand Results.⁵

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516A(c) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's June 20, 2013, judgment in this case constitutes a final decision of that court that is not in harmony with the Department's Final Scope Ruling on Automotive Heating and Cooling Systems. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of components for automotive heating/cooling systems pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Scope Ruling

Because there is now a final court decision with respect to this case, the Department is amending its final scope ruling and finds that the scope of the *Orders* does not cover Valeo's components for automotive heating/cooling systems. The Department will instruct U.S. Customs and Border Protection ("CBP") that the cash deposit rate will be zero percent for Valeo's components for automotive heating/cooling systems. In the event that the CIT's ruling is not

⁴ See the Department's memorandum regarding: Final Scope Ruling on Side Mount Valve Controls, dated October 26, 2012 ("SMVCs Scope Ruling"); see also the Department's memorandum regarding: Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC), Initiation and Preliminary Scope Ruling on Side Mount Valve Controls, dated September 24, 2012.

⁵ See *Valeo Inc., et al. v. United States*, Court No. 12-00381 (CIT June 20, 2013) (judgment sustaining Remand Results).

appealed, or if appealed, upheld by the CAFC, the Department will instruct CBP to liquidate entries of Valeo's components for automotive heating/cooling system without regard to antidumping and/or countervailing duties, and to lift suspension of liquidation of such entries.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 10, 2013 _____
(date)

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